

1885-034 Chancery Causes: Russell G. Milham vs. William T. Miller  
Lee Co.

CA-Debt

T-Property



To the Hon. John A. Kelly Judge of the circuit Court of  
Lee County Virginia

Humbly complaining your Orator Rufell J. Melham  
a citizen of said county of Lee would respectfully show unto your  
Honor, that one Harry J. Morgan as agent of William Barnes deed  
on the 29<sup>th</sup> day of August 1873 obtained a judgment in your  
Honors Court against William W. Sage then late Constable of Lee  
county, and one William P. Miller and your Orator as his Sureties  
for the sum of \$97.21 with legal interest thereon from the 18<sup>th</sup>  
day of July 1859 till paid, and costs amounting to \$11.23 a  
transcript of said judgment is here filed marked (A) and is prayed  
to be considered as a part of this bill. Said judgment was rendered  
as stated, subject to a credit of \$30.00 paid Feb. 21. 1860. This judgment  
was rendered by your Honor on account of money collected by said  
Sage as such Constable and not paid over. At the time  
said judgment was rendered, the said Sage was insolvent  
so that no part of the same was or could be made out of his property  
and he has thus continued to the present time & is now wholly insolvent.

Your Orator further states that on the 23<sup>rd</sup> day of January 1874  
an Execution was issued on said judgment from the clerks office  
of your Honors Court which went into the hands of Charles L. Ham-  
blen then high sheriff of the county of Lee who proceeded to en-  
force payment of the same out of said William P. Miller and  
your Orator as the sureties of said Sage and on the 10<sup>th</sup> day  
of April 1874 said Miller paid to said Hamblen as such sheriff  
in discharge thereof the sum of \$44.46 And your Orator was  
compelled to pay the residue thereof and in doing <sup>so</sup> he made  
the following payments at the following times to wit



\$45.00 paid March 16-1874. \$20.00 paid April 20th 1874  
\$30.00 paid July 20-1874 + \$11.45 paid Nov. 20th 1876. The first  
three of these payments was made by your Orator to said  
Hamblen and the fourth and last to said Morgan and the  
original execution showing these payments is herewith filed  
as a further part of this bill marked (B)

Your Orator is advised that the judgment aforesaid constitutes  
a valid and subsisting lien on the real estate owned by said  
Miller at the time or since acquired, and your Orator is  
further advised that he is entitled to recover against said Wm  
P. Miller such Sum as will make an equal half of said  
judgment taking into consideration the Sum already paid  
by him. And your Orator here charges that he is entitled  
to, and ought to recover against said Miller on account of an  
over payment by him over and above an equal half thereof  
the Sum of \$34.80 with legal interest thereon from the 20th day  
of Nov. 1876 till paid as shown by a calculation and Statement  
of said payments herewith filed marked (C) And your Orator  
is likewise advised that he having paid <sup>said</sup> Sum which the said  
Miller ought to have <sup>paid</sup> and for which he is liable under the law  
of the land. that your Orator is entitled in a court of equity to  
be substituted to the lien of said Morgan as against said Miller  
and to have said lien enforced as against his real estate to the  
extent of said \$34.80 with interest as aforesaid and the costs of suit

Your Orator further States that said Miller does not now  
own any personal property liable to be taken in execution  
for his debts, so that a judgment at law would be wholly  
unavailing against him. He is however the owner of a



considerable tract of land made up of several smaller  
pieces adjoining each other lying about 2 1/2 miles north  
east of Jonesville on the Stephens Springs road in said county.  
on which said judgment operates as a lien, your Orator  
further states that since the 29th day of August 1873 the day  
when said judgment was rendered, other persons have obtained  
large judgments against said Miller which also constitute  
liens on his real estate. So that if your Orator is not substituted  
to the lien of said Morgans judgment, he will in all probability  
lose his claim. The premises considered, the prayer of your  
Orator is that the said William P. Miller be made the party defendant  
to this bill, and be required to answer the same on oath, and  
upon a hearing of the cause, a decree be rendered against him  
in favor of your Orator for \$34.80 with interest thereon from the  
20th of Nov. 1876 till paid and the costs. That your Orator be  
substituted and remitted to the lien of said Morgans judgment  
as of the 29th day of August 1873, that the same be enforced  
by a decree of sale of so much of said Millers real estate as will  
be necessary to pay said sum of money interest & costs, or if  
thought more advisable, that the real estate of said Miller  
be rented out for such length of time as will pay said debt  
interest interest and cost. And if your Orator is in any  
wise mistaken in this his special prayer, then he prays for  
all general relief May command the writ of Habeas Corpus.

Ayers & Morgan P. L.



B 325 Apr 1882  
A 1500

18.25  
C 2.32 to Jan 1884  
72

3.25  
308  
633.

Russell M. Deham

100 } Bill in Chg.

William P. Miller

1882 April Term Placed on  
Docket by consent of Dft.  
and decree by conf. in  
Mr. ofm cant + Court

" Aug - Continued

1883 Court this year

1884 Court this year

1883 - March Court

11 Aug Decree final



R. J. Melham vs. Wm. P. Miller.

On calling this cause at this term it was announced  
by counsel  
by a writing filed in the cause, that the debt to enforce  
which the suit had been brought, and the costs of the  
suit had been fully paid by the debt Miller <sup>some</sup> ~~had~~  
~~the last term.~~  
~~been paid and fully settled~~ It is therefore adjudged  
ordered & decreed that the parties be hence dismissed &  
the cause taken from the docket.

R. J. Milsam

27 { Deem final

Wm. P. Miller

Entered Page 454.

J. A. B. Hyatt clk.

Enter this

In 2516

Aug 24/85 -



Russell J. Micham      Plff.  
 vs.  
 Wm. P. Miller      Deft. } In Chie

The plaintiff by counsel, and the Deft. in his proper person appeared this day before the Judge of this Court, where the said defendant signed and acknowledged the paper which is filed with the other exhibits marked (D) and therefore the cause came on to be heard this day on the bill of the Plff and exhibits therewith, and said paper (D) and was argued by counsel. On consideration whereof it is adjudged ordered and decreed that the Plff recover of the defendant \$34.80 with legal interest thereon from the 20th day of November 1876 till paid and the costs. And the said Plff is substituted to the line of the judgment in his bill mentioned as of the 29th day of Aug 1873, and the Plff being willing at this time to take a decree for renting the land in the bill mentioned, without relinquishing his right to have the same decreed to be sold in the event such renting should prove unsatisfactory. It is therefore further adjudged ordered and decreed that unless the said defendant shall pay said debt interest and costs to the Plff within 30 days after the rising of this Court. Then Henry J. Morgan who is appointed a commissioner for the purpose will proceed to rent out the land in the bill mentioned on a credit of 12 months with interest for the same, for the shortest space of time that the same will yield the requisite sum, <sup>the rents to be paid annually</sup> said renting to take place at the door of the Court house on some Court day after 30 days notice of the time place and terms. Said Court will report his action



Russell J. Micham

vs. } Decree N<sup>o</sup>. 1

Wm. P. Miller

Entered page 254

J. L. Hyatt  
Clerk

Enter this decree

J. A. S.

Apr. 4/82

To the court and the cause is continued



Virginia

At a circuit held for Lee Co. the 29<sup>th</sup> day of Aug 1873  
Henry J. Morgan admr. of W. Curries Poff } Or a motion for  
vs. } money collected  
Wm. H. Sage late Const. + R. J. Milburn and } by said Sage late  
William P. Miller his Sureties } Dfts Const as aforesaid  
and not paid over.

This day came again the plaintiff by his attorney and  
also the dft Sage by his attorney, and it having been heretofore  
suggested upon the record in this cause that the dft Sage  
had gone into bankruptcy, the court is of opinion that his  
said bankruptcy is no bar to this action against him  
and it appearing to the court that the other dfts have had  
legal notice of this motion and being called came not.

It is therefore considered by the court that the Poff  
recover against the dfts Sage, Milburn and Miller  
\$97.21 the amount of the monies in the notice mentioned  
at the time the same ought to have been accounted for by the  
said constable with legal interest thereon from the 18<sup>th</sup>  
day of July 1859 till paid and the cost. Subject to a  
credit of \$30.00 paid Feb. 21<sup>st</sup> 1860



Henry J. Morgan admr.

vs { copy of Judgt

Wm. W. Sage & others

(A)



# The Commonwealth of Virginia ;

TO THE SHERIFF OF LEE

COUNTY, GREETING :

We command you that of the goods and chattels of

*Wm M. Lige R. J. M. L. L.*

late of your bailiwick, you cause to be made \$

with interest at 6 per cent.

per annum from the

day of

1877 until paid, which

lately in our County Court of Lee has recovered against

for

debt; also \$

which to the said

in the same court were adjudged for

costs in that behalf expended, whereof

the said

convict, as appears to

us of record; and that you have the same before the Judge of our said county, at the court-

house, on the

Monday in

next, to render unto the said

of the

debts and costs aforesaid. And have then there this writ. Witness, JAS. W. ORR, Clerk of

our said Court, at the court-house, the

23<sup>rd</sup>

day of

1877, in

the

year of the Commonwealth.

2003  
5 120  
21 23  
11.23



1874 March 14 87.134 846.00 1874 12. 2. 1874

20.14

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43.00 commission 22.50 to be paid by 8. 1874

Recd of Col. Hamblen 1874 12. 2. 1874

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Henry J. Morgan admr. of Wm. Barnes

W. W. Sage late Const. & Wm. P. Miller &

Russell J. Milham his Sureties.

In this case said Sage was insolvent and the said Miller and Milham as his Sureties were called on and compelled to pay the judgment, and in doing so the same was paid by them as follows.

Paid by Wm. P. Miller April 20<sup>th</sup> 1874 this Sum

\$14.46

Int to Nov. 20<sup>th</sup> 1876.

6.89

\$1.35

Paid by R. J. Milham March 16<sup>th</sup> 1874 \$45.00

Int to Nov 20<sup>th</sup> 1876. 7.20

" " Same April 20<sup>th</sup> 1874. 20.00

Int to Nov. 20<sup>th</sup> 1876 3.10

" " Same July 20<sup>th</sup> 1874. 30.00

Int to Nov 1876. 4.20

" " Same Nov. 20<sup>th</sup> 1876 11.45 120.95

Total Sum paid + Int to Nov. 20<sup>th</sup> 1876. \$172.30

One half thereof which W. P. Miller should have paid \$86.15

" " " " R. J. Milham " 86.15 172.30

The Share which Miller should pay Nov. 20 1876 is \$86.15

The Sum " he has paid as above is 51.35

" Balance which Miller owes Milham Nov. 20<sup>th</sup> 1876 is - \$34.80

Milham has paid as above Nov. 20 1876 \$120.95

To be paid him by Miller Nov. 20 1876 34.80

Then Milham's Exp will be - 86.15



H. J. Morgan admt.

Stam. } Statement of payments

Malham & Miller

(6)



Russell J. Milham plaintiff.

vs

William P. Miller Deft.

} In Chancery.

I, William P. Miller, defendant, agree that this cause shall be docketed at this the March term 1882, ~~for~~ of the Circuit Court for Lee County, and I enter my appearance thereto, and having no sufficient defense to the bill, consent that a decree may be rendered against me, for the sum of \$34.80, with int. from the 20<sup>th</sup> Nov. 1876 till paid, & the costs of suit, to be enforced by a decree for renting my land.

Wm P. Miller



W. P. Miller

ad.

R. J. Milham

Captain of Dept

(D)



Russell J. Mahan Off }  
vs. } In Chg  
Wm. P. Miller Deft }

To the Hon John A. Kelly Judge of the Circuit  
Court of Lee County Va.

Since the last term of your Honor Court the  
deft Wm. P. Miller sold a small piece of land, and  
out of the proceeds thereof has fully paid the debt  
heretofore decreed the plaintiff in this cause, and the  
costs of suit. The cause may therefore be stricken  
from the docket.

H. J. Morgan

June 23<sup>rd</sup> 1885



H. J. Milburn

105

Wm. P. Miller

Statement of Council